

<sup>1</sup> All pretrial proceedings in this case were referred to the undersigned pursuant to the provisions of 28 U.S.C. § 636(b)(1)(A) and (B) and Local Rule 73.02(B)(2)(d), D.S.C. Because this is a dispositive motion, the report and recommendation is entered for review by the District Judge.

interest to provide the TRO when he has not proven irreparable harm. (Doc. #41).

“A plaintiff seeking a preliminary injunction must establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest.” Winter v. Natural Resources Defense Council, Inc., --- U.S. ---, 129 S.Ct. 365, 374, 172 L.Ed.2d 249 (2008) All four requirements must be met. Id.

Plaintiff fails to make the requisite showing. He simply asks that the court issue an injunction without providing a legal basis for doing so. Injunctive relief, such as the issuance of a preliminary injunction, is an extraordinary remedy that may be awarded only upon a clear showing that the plaintiff is entitled to such relief. Mazurek v. Armstrong, 520 U.S. 968, 972, 117 S.Ct. 1865, 138 L.Ed.2d 162 (1997). Plaintiff fails to show actual injury or harm and that, assuming injury or harm, that it is irreparable. Plaintiff also fails to show an injunction is in the public interest.<sup>2</sup>

As plaintiff has failed to meet the Winter factors, it is recommended that this motion for TRO (doc. #30) be denied.

Respectfully submitted,

s/Thomas E. Rogers, III  
Thomas E. Rogers, III  
United States Magistrate Judge

May 5, 2010  
Florence, South Carolina

**The parties' attention is directed to the important notice on the next page.**

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<sup>2</sup> Additionally, decisions relating to the day-to-day operation of prisons are entrusted to the officials of the particular institution or correctional system. See Olim v. Wakinekona, 461 U.S. 238, 103 S.Ct. 1741, 75 L.Ed. 813 (1983).